IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 14082 of 2007
with
SPECIAL CIVIL APPLICATION No. 14083 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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RASIKBHAI KANTIBHAI PARIKH & 1 - Petitioner(s)
Versus
RANJANBEN KESARICHANDRA SHAH - Respondent(s)

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Appearance :
MR NK MAJMUDAR for Petitioner(s) : 1 - 2.
MR MTM HAKIM for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

Date : 28/09/2007

ORAL COMMON JUDGMENT :

Rule. Mr. MTM Hakim, learned advocate for respondent waives service of rule. Since both these petitions arise from the same proceedings,

they are heard together and now they are being disposed of by this common judgment.

2. In Special Civil Application No. 14082/2007 the petitioners have prayed for quashing order dated 20/10/2006 passed below application Exh. 28, copy whereof is annexed at Annexure-G to the petition, whereby the application of the petitioners for recalling the order dated 29/5/2006 passed by the Motor Accident Claims Tribunal [Aux.], Vadodara in M.A.C. Petition No. 218/2005, is rejected. Special Civil Application No. 14083/2007 is filed praying for quashing and setting aside the order dated 29/5/2006 passed in M.A.C. Petition No. 218/2005 below application Exh. 6 by the same Tribunal passing interim award under section 140 of the Motor Vehicles Act [MV Act] and granting interim compensation of Rs.25,000/- to the respondent.

3. Having perused the record of the petitions and having heard Mr. NK Majmudar, learned advocate for the petitioners and Mr. MTM Hakim, learned advocate for respondents, it appears that the following directions will serve the purpose of the petitioners :

I The impugned orders dated 20/10/2006 and 29/5/2006 are quashed and set aside. The matters are remitted to the Tribunal for reconsideration.

II Upon Deposit of the award amount by the petitioners within 15 days from the date of this judgment, the Tribunal shall grant hearing to the petitioners in respect of application under section 140 of the MV Act submitted

by respondents, which is at Exh. 6 in M.A.C. Petition No. 218/2005. The Tribunal shall take appropriate decision strictly in accordance with law and on merits of the case within two months from the date of deposit of the amount. The amount that may be deposited by the petitioners shall be subject to the final outcome of the main petition. It is clarified that while deciding the application afresh, the Tribunal will not be influenced by the order of rejection passed by this Court.

Registry is directed to return the record to the Tribunal forthwith.

With the aforesaid directions, the petitions are allowed. Rule made absolute.

[Akshay H Mehta, J.]

* Pansala.